

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

In the Matter of

SENECA MENTAL HEALTH/
MENTAL RETARDATION COUNCIL, INC.

Employer

and

Case 9-RC-17255

DISTRICT 1199 WV/KY/OH, THE HEALTH CARE
AND SOCIAL SERVICE UNION, SEIU, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein called the Act, a hearing was held before a hearing officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, ^{1/} the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

^{1/} Both parties timely filed briefs which I have carefully considered in reaching my decision.

5. The Employer, a corporation, is engaged providing mental health and substance abuse care to clients in Greenbrier, Webster, Nicholas and Pocahontas Counties in West Virginia, where it employs approximately 56 employees in the unit found appropriate. There is no history of collective bargaining affecting these employees.

The parties agree, and I find, that professional employees, including service coordinators, substance abuse counselors, case managers, basic living skills managers, therapists, early intervention specialists, qualified mental retardation professionals, behavior management specialists, supervised psychologists, registered nurses, pre-school teachers, family support coordinators, community support coordinators and community development specialists for substance abuse prevention employed by the Employer in Greenbrier, Webster, Nicholas and Pocahontas Counties in West Virginia, excluding all other employees, office clerical employees, quality assurance employees, training instructors, regional office staff and guards and supervisors as defined in the Act constitute a unit appropriate for purposes of collective bargaining. However, the parties disagree on the unit placement of substance abuse counselors Ray Krautheim, Regina Edens and Gary Collins and service coordinator Sallie Alkire, whom the Employer, contrary to the Petitioner, would exclude from the unit on the ground that they are supervisors within the meaning of Section 2(11) of the Act. The parties agree, and the record reflects, that this is the only issue in dispute.

The Employer employs approximately 400 employees, including the 56 employees, in the unit found appropriate. The Employer and the Petitioner are parties to a collective-bargaining agreement covering a bargaining unit of nonprofessional employees which is effective by its terms from August 15, 1996 to August 11, 1999. The record reflects that the Petitioner was certified as the representative of the approximately 220 nonprofessional employees but it is not clear how long these employees have been represented. A number of employees at the regional office are not currently represented and are not included in the unit found appropriate.

The Employer's executive director, Guy Hensley, oversees the Employer's operations in the four county area and is responsible for the overall supervision of approximately 45 managers and supervisors. Immediately subordinate to Hensley are the Employer's county directors who directly supervise first and second level supervision who, in turn, supervise the professional and nonprofessional employees.

RAY KRAUTHEIM, REGINA EDENS AND GARY COLLINS:

The Employer employs five substance abuse counselors, including Krautheim, Edens and Collins. The parties are in agreement that the Employer's remaining substance abuse counselors are not supervisors and should be included in the Unit. All the substance abuse counselors provide substance abuse services directly to the Employer's clients, work which is not contended to be supervisory in nature by either party. Contrary to the Petitioner, the Employer contends that Krautheim, Edens and Collins are supervisors by virtue of their responsibilities to oversee the work of public intoxicant observers (PI Observers). There was no evidence that the Employer's remaining two substance abuse counselors bear any responsibility with respect to PI Observers. The PI Observers are represented by the Petitioner in the nonprofessional unit.

Under West Virginia law, a person arrested for public intoxication, referred to in the record and herein as a PI, may not be housed in a correctional facility or jail. The Employer contracts with the state to provide shelters for housing PIs and to observe and evaluate them until their blood alcohol content drops below a prescribed level. Krautheim, Edens and Collins, collectively referred to herein as PI Overseers, are each responsible for overseeing the operation of a separate PI shelter and the work of PI Observers who perform their work in those shelters. The PI Observers' work relates primarily to their observation of PIs upon their arrest and detention at the PI shelters. The PI Observers measure the PI's blood alcohol content until the PI reaches a prescribed level of sobriety at which time the PI is released. In the interim, the PI Observers complete a set of approximately 15 forms recording information from the PI's observed behavior and from an interview concerning the PI's habits regarding the consumption of intoxicants. This documentation is then forwarded to a PI Overseer who reviews the documentation to determine whether the PI requires substance abuse therapy.

Krautheim has been in charge of the PI program in Webster County for several years. The current and normal complement of PI Observers in Webster County is two with each being on-call for a week at a time. Krautheim reports directly to Karen Dotson, the Webster County director, who, in turn, reports directly to Hensley. Edens has been in charge of the PI program in Greenbrier County for about 8 years. The current and normal complement of PI Observers in Greenbrier County is 3. Edens reports to Christy Pierson, the Greenbrier County director, who, in turn, reports to Hensley. Collins has been in charge of the Nicholas County PI program for about 3 years. There is currently no PI Observer in Nicholas County. However, the normal complement is two with each being on-call for week at a time. Collins is in the process of hiring PI Observers for Nicholas County to replace those who have recently resigned. Collins reports to Bill Brackett, Nicholas County director, who, in turn, reports to Hensley.

The PI Overseers determine a schedule, normally in increments of a week, for the PI Observers to be on-call to receive calls from the police in response to a PI arrest. Although the PI Overseers determine the initial on-call schedule, the PI Observers may alter the schedule by mutual agreement among themselves, provided that coverage is continuously maintained. In Nicholas and Webster Counties, the Employer uses one PI Observer per call whereas in Greenbrier, for security reasons, the Employer uses two PI Observers. The Employer estimates that in Nicholas County, where the highest volume of PI calls is received, the number of calls per year averages about 15 split between the two PI Observers. However, the record shows that PI Observers may be called for observations as infrequently as once every 2 months which constitutes approximately seven or eight PI calls a year. The record does not contain evidence as to the amount of time PI Observers spend on a typical PI call, but it appears that the time would be measured in hours as opposed to longer periods.

The PI Observers are required to submit service activity logs, travel expense reports and timesheets for review by the PI Overseers. Service activity logs, used by the Employer for billing purposes, contain information concerning which functions were performed by the PI Observer and the amount of time spent performing them. The timesheets are used to record the amount of time the PI Observer spends working for the Employer and are used for payroll purposes. Travel expense reports are used to reimburse PI Observers for miles driven in the course of their duties. PI Overseers review the documentation submitted by the PI Observers for completeness and accuracy. The accuracy of the documents can be measured only by whether

they are internally consistent, because the PI Overseers have no means to independently verify their accuracy.

Regulations require that every person employed by the Employer receive at least 1 hour of face-to-face supervision per month and this requirement is fulfilled for the PI Observers when they attend monthly 1-hour meetings with the PI Overseers. The record also reflects that PI Observers confer telephonically or in person with PI Overseers on an ad hoc basis to discuss problems arising with the observation of PIs, but the evidence fails to disclose how much time PI Observers spend in such activity. PI Observers spend an undisclosed amount of time receiving initial training from PI Overseers concerning how to deal with PIs and how to complete the necessary documentation relating to that activity. In total, the PI Overseers spend about 5 to 10 percent of their work time performing duties relating to their oversight of the PI Observers with most of this time being spent reviewing documentation. The remainder of the PI Overseers' work time is devoted to performing their undisputed nonsupervisory functions as substance abuse counselors.

The hiring process, as it relates to PI Observers, is generally described by the Employer's witnesses as being commenced by the PI Overseers when they initiate a form seeking authorization to hire a PI Observer for an existing vacancy. This form is forwarded through the chain of command to Hensley who has final approval. Upon approval of the request, the position is posted for bid in the nonprofessional unit and, thereafter, if the position is not filled from the bid,^{2/} the Employer's human resources department causes help wanted advertisements to be placed in local periodicals. Upon receipt of applications in response to the advertisements, the PI Overseers screen the applications to select candidates for interview. The PI Overseers conduct the interviews alone and forward a written recommendation as to which applicant should be hired along with the applications of all candidates. The recommendation is reviewed and signed by the county director who forwards it to Hensley for final approval. It is undisputed that Hensley must approve the hiring of any employees. However, the record reflects that the hiring recommendations of the PI Overseers have always been followed and that the PI Overseers are the only people who normally speak with the applicants before the hiring decision is made. Thus, the PI Overseers actually determine who is hired as PI Observers.

The record discloses that in the 8 years that Edens has been involved with the PI program, she has interviewed about 10 applicants for PI Observer positions which resulted in 4 being hired in accordance with her recommendation. The two PI Observers under Krautheim have been continuously employed since before Krautheim became involved with the PI program, so Krautheim has not had occasion to become involved in the actual hire of a PI Observer. However, Krautheim did conduct interviews for a vacancy which never materialized.

Collins testified that he has interviewed PI Observer applicants alone or in the presence of his supervisor, Bill Brackett. The record does not reflect the number of interviews that Collins has participated in, the frequency of Brackett's participation in such interviews or the number of PI Observers hired as a result of such interviews. Collins described the hiring process as being a collaborative effort between Brackett and himself. Brackett testified that when Collins first

^{2/} The record reflects that no nonprofessional unit employee has ever bid on a PI Observer position.

became involved in the PI program, he and Collins jointly conducted a series of interviews for one vacant PI Observer position. According to Brackett, after these initial joint interviews, Collins has conducted the interviews on his own and made hiring recommendations, which have always been followed.

In its brief, the Petitioner asserts that during the interviews of PI Observer applicants, the PI Overseers and the county directors are both present and that the county directors assist the PI Overseers with the interview process and in making the hiring recommendation. In addition, the Petitioner contends that Edens testified that she discussed each candidate for a PI Observer position with her supervisor and that the supervisor made the hiring recommendation to Hensley. These factual assertions in the Petitioner's brief are not supported by, and are contrary to, the evidence in the record. There is no evidence in the record which would indicate that the county directors are always present during the interviews of candidates for PI Observer positions. Indeed, the record reflects that the normal practice is that the PI Overseers alone conduct such interviews. Moreover, contrary to the assertion in the Petitioner's brief, there is nothing in Edens' testimony indicating that she ever discussed with her supervisor any applicant for a PI Observer position.

The evidence suggests that the PI Overseers have the authority to initiate the processing of personnel action reports which contain recommendations as to the imposition of disciplinary action, including warnings and suspensions. The evidence, however, is not sufficiently specific to enable any identification of the persons who have authority to make or effectively recommend decisions based on the personnel action reports. Indeed, it is clear that Krautheim and Collins have never exercised any authority to recommend discipline. Dotson, Krautheim's county director, testified that if Krautheim were to recommend disciplinary action, she would meet jointly with Krautheim and the affected employee to discuss the matter before deciding whether discipline would be imposed. On one occasion, Edens issued a written reprimand to a PI Observer for failing to respond to a call. Edens had previously discussed the discipline with Pierson, her county director, who may have discussed the incident with the disciplined employee.

Hensley testified that the PI Overseers possess, but have never exercised, authority to remove a PI Observer from duty in an emergency situation involving allegations of abuse. Hensley explained that abuse allegation situations are so exigent that immediate removal of the employee from the situation is imperative and that such removal automatically occurs prior to the commencement of any investigation of the abuse allegation.

The record discloses that Krautheim has prepared and signed written performance evaluations of PI Observers and that Edens has never done so. There is no evidence as to what, if any, role Collins may have in evaluating PI Observers. Moreover, there is no evidence as to whether these evaluations impact employees' terms and conditions of employment. All PI Overseers sign time records and travel forms for the PI Observers. Finally, the PI Observers attend supervisor's meetings, including one in which the Employer's position with respect to the Petitioner was discussed.

SALLIE ALKIRE:

Alkire testified that for a year prior to February 1999, she was a service coordinator and a supervisor in Nicholas County. During that time, Alkire possessed authority to interview and recommend hiring employees. Her recommendation was followed in the one instance in which she exercised such authority. The Petitioner stipulated that she was a supervisor while working in Nicholas County. Around February 1999, Alkire was transferred from Nicholas County to a nonsupervisory service coordinator position in Greenbrier County. In early May 1999, the Employer designated Alkire as the supervisor of about 12 habilitation specialists represented by the Petitioner in the nonprofessional unit. After such designation, Alkire continued in her position as service coordinator. Alkire's pay has remained unchanged since prior to her transfer from Nicholas to Greenbrier County. Alkire testified that since May 1999, she has performed the same duties as she did in Nicholas County prior to the transfer and that such duties are the same as performed by Liz Bragg and Shelia Phares, who are both service coordinators and admitted supervisors.^{3/} The record reflects that in addition to Alkire, the Employer employs four other service coordinators who are stipulated supervisors and three service coordinators who do not possess supervisory indicia.

ANALYSIS:

Section 2(11) of the Act defines a supervisor as a person:

. . . having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing, the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment. . . .

It must be noted, however, that in enacting Section 2(11) of the Act, Congress emphasized its intention that only supervisory personnel vested with “genuine management prerogatives” should be considered supervisors, and not “straw bosses, leadmen, set-up men and other minor supervisory employees.” *Chicago Metallic Corp.*, 273 NLRB 1677, 1688 (1985). Although the possession of any one of the indicia specified in Section 2(11) of the Act is sufficient to confer supervisory status, such authority must be exercised with independent judgment and not in a routine manner. *Hydro Conduit Corp.*, 254 NLRB 433, 437 (1981). Moreover, the exercise of “supervisory authority” in merely a routine, clerical, perfunctory or sporadic manner does not confer supervisory status. *Feralloy West Corp.*, 277 NLRB 1083, 1084 (1985); *Chicago Metallic Corp.*, supra; *Advanced Mining Group*, 260 NLRB 486, 507 (1982). It is also well established that the burden of proving that an individual is a supervisor rests on the party asserting supervisory status. *Ohio Masonic Home*, 295 NLRB 390, 393 (1989); *Tree-Free Fiber Co.*, 328 NLRB No. 51 (1999). “Accordingly, whenever the evidence is in conflict or otherwise

^{3/} Bragg and Phares are among the persons whom the parties stipulated were supervisors within the meaning of Section 2(11) of the Act.

inconclusive on particular indicia of supervisory authority, [the Board] will find that supervisory status has not been established at least on the basis of those indicia.” *Phelps Community Medical Center*, 295 NLRB 486, 490 (1989).

Based on a careful review of the record and of the parties’ briefs, I find that the PI Overseers possess the authority in the interest of the Employer to utilize independent judgment in their effective recommendations to hire PI Observers and that the Employer has, therefore, met its burden in establishing that the PI Overseers are supervisors within the meaning of Section 2(11) of the Act. The evidence establishes that the PI Overseers have the independent authority to screen employment applications to determine which applicants will be interviewed, to conduct such interviews and to make effective recommendations as to which of the interviewees should be hired. The PI Overseers exercise independent judgment in the screening and interview process by determining which of the applicants are best qualified for the position. The evidence shows that the hiring recommendations of the PI Observers are always followed and that the PI Observers are the only persons who normally meet with the applicants before the hiring decisions are made. In these circumstances, I conclude that the hiring recommendations of the PI Overseers are effective.

The record establishes that Edens has actually exercised her authority to effectively recommend hiring on at least four occasions. Although it appears that Krautheim has never actually exercised his authority to effectively recommend that a PI Observer be hired, the record shows that this is a consequence of the Employer's lack of need to hire a PI Observer under his supervision as opposed to any lack of authority Krautheim may possess. It is well settled that the possession of authority is determinative of supervisory status under the Act as opposed to its actual exercise. *Wilson Tree Co.*, 312 NLRB 883, 885 (1993); *Alaska Cummins Service, Inc.*, 281 NLRB 1194, fn. 1 (1986); *Cox Enterprises, Inc.*, 263 NLRB 632, 633 (1982). The record reflects that the PI Overseers, as a class, have been vested with the authority to effectively recommend hiring and the fact that Krautheim may not have had an occasion to exercise such authority does not diminish the authority he possesses. Although the record evidence with respect to Collins' exercise of authority to effectively recommend hiring is not clear and appears to be somewhat in conflict, Brackett testified that Collins has independently interviewed applicants and recommended their hire and that such recommendations have never been rejected. Moreover, there is nothing in Collins' vague record testimony which is directly inconsistent with the testimony of Brackett. Even accepting Collins' testimony in the light most favorable to the Petitioner's position, it appears that Collins retains the authority to independently and effectively recommend hiring but does not always choose to exercise such authority, preferring instead to voluntarily seek Brackett's input.

It appears from the record that the PI Overseers infrequently recommend hiring. Moreover, the Board has held that sporadic exercise of supervisory authority may be deemed insufficient to confer supervisory status. *Robert Greenspan, DDS*, 318 NLRB 70 (1995); *Billows Electric Supply*, 311 NLRB 878, 879 (1993). However, in *Biewer Wisconsin Sawmill, Inc.*, 312 NLRB 506 (1993), the Board found that supervisory status was conferred on an individual based solely on the fact that on one occasion during a year and a half period, the individual told an employee that the employee would be discharged on the next occurrence of misconduct. The Board concluded that the authority to make such a statement conferred supervisory status on the individual because it constituted the imposition of discipline requiring the use of independent

judgment and it was not sporadic given the small number of employees under the individual's supervision and the fact that the need to impose such a serious penalty would not be expected to often arise. Consistent with the rationale of *Biewer Wisconsin*, I conclude that the PI Overseers' authority to recommend hiring is not sporadic. Thus, the number of persons under their supervision is small and the need to hire employees arises infrequently; but whenever such need arises, the record shows that the PI Overseers possess the authority to effectively recommend hiring, an important primary indicia of supervisory status.

In its brief, the Petitioner maintains that the PI Overseers are not supervisors because the vast majority of their time is spent performing the same professional nonsupervisory work as the other employees in the unit found appropriate and only a minimal amount of their time is spent in the performance of their duties with respect to the PI Observers. I am mindful that the PI Overseers spend only 5 to 10 percent of their time in activity relating to the PI Observers and that the PI Observers work on an infrequent basis. I am also aware that the PI Observers are represented by the Petitioner in a nonprofessional unit.

In *Legal Aid Society of Alameda County*, 324 NLRB 796 (1997), the Board considered the supervisory status of professionals, a portion of whose duties included the exercise of supervisory authority over nonprofessional employees outside the bargaining unit in which the professionals were sought to be included. The Board analyzed the job functions of the professionals and the nonprofessional employees to determine whether the work of the nonprofessionals was part and parcel of the work of the professional, in which case supervisory status is conferred, or whether it was merely a supportive adjunct to the professional's work unrelated to the professional's work product, in which case supervisory status is found to be absent. In *Legal Aid Society*, paralegals, who performed legal research and drafted pleadings and briefs for an attorney, were found to be performing work that was part and parcel of the ultimate work product of the attorney because they were directly and substantively involved in producing part of the attorney's primary work product. The Board found these circumstances conferred supervisory status on the attorney. Here, the primary function of the PI Observers is to observe and interview PIs to obtain information to enable the PI Overseers to evaluate whether the PIs require therapy. A primary job function of the PI Overseers, in their nonsupervisory role as substance abuse counselors, is to evaluate whether substance abuse therapy is required and, if required, to provide such services. Thus, the PI Observers are directly and substantively engaged in producing a part of the PI Overseers' primary work product. Accordingly, under the rationale of *Legal Aid Society*, I conclude that the work relationship between the PI Observers and the PI Overseers is such that it confers supervisory status on the PI Overseers.

With respect to Alkire, the record discloses that since May 1999, she has possessed authority to effectively recommend the hire of employees requiring the use of independent judgment. Indeed, since May 1999, Alkire has had the same job duties as she had in Nicholas County when she was an admitted supervisor and has performed the same job duties as other service coordinators who are stipulated supervisors. Finally, the Petitioner has not advanced any argument in its brief in support of its position at the hearing that Alkire is not a supervisor.

Based on the foregoing, the entire record and careful consideration of the arguments of the parties at the hearing and in their briefs, I find that the PI Overseers, Ray Krautheim,

Regina Edens and Gary Collins, and the service coordinator, Sallie Alkire, are supervisors within the meaning of Section 2(11) of the Act. The record shows that they have the authority to independently interview applicants and to effectively recommend the hire of employees. In view of the provision of Section 2(11) primary supervisory indicia, I find it necessary to consider the Employer's contention at the hearing and in its brief that these individuals possess and exercise other supervisory authority. Accordingly, I shall exclude Krautheim, Edens, Collins and Alkire from the Unit.

STIPULATED SUPERVISION:

In accordance with the stipulation of the parties and the record evidence, I shall exclude the following persons from the unit as supervisors within the meaning of Section 2(11) of the Act:

Guy Hensley	- Executive Director
Amy LeRose	- Human Resources Director
Suzanne Tabor	- Director of Accounting
Joan McCutcheon	- Director of Accounts Receivable
Deb Coulter	- MIS Coordinator
Marian Steele	- Accounts Payable Supervisor
Bill Brackett	- Nicholas County Director/Substance Abuse Coordinator
Larry Russell	- Day Treatment Coordinator
Aileen McKinney	- Residential Program Coordinator
Jim Johnson	- Child & Family Therapist/Site Supervisor
Norma Strickland	- Office Manager
Rachel Wyre	- Assistant Residential Program Coordinator
Teresa Dennison	- Early Intervention Coordinator
Linda Whittaker	- Waiver Service Coordinator
Liz Bragg	- Waiver Service Coordinator
Tracy Burgess	- Waiver Service Coordinator
Christy Pierson	- Greenbrier County Director/Substance Abuse Coordinator
Sarah Bostic	- Site Supervisor
Gaye Brown	- Residential Support Coordinator
Janice Brown	- Day Treatment Coordinator
Marie Propps	- Early Intervention Coordinator
Kim Fleming	- Service Coordinator Supervisor
Jayne Childers	- Office Manager
Barbara Cornelius	- QA Coordinator
Marcie Vaughan	- Site Supervisor/Supervised Psychologist
Nadine Lockhart	- Regional Youth Specialist
Kathy Ball	- Psychologist
Rebecca Williams	- Day Treatment Manager
Karen Dotson	- Webster County Director
Edith Strong	- Therapist/Supervisor
Carolyn Hammons	- Children's Day Treatment Coordinator

Terry Ball-Fitzwater	- Site Supervisor/Case Manager
Sheila Phares	- Waiver Service Coordinator
Rebecca Mollohan	- Early Intervention Coordinator
Doris Armstrong	- RN/Personal Care Coordinator
Roberta Hinger	- Day Treatment Coordinator
Carolyn Kessler	- QA Coordinator
Naomi Davis	- Day Treatment Manager
Melissa Hill-Doss	- Early Intervention Coordinator
Mary Johnson	- Waiver Service Coordinator
Diana Arbogast	- QA Coordinator/Office Manager
Lola Arbogast	- RN/Day Treatment Coordinator

CONCLUSION:

Based on the foregoing, the record as a whole and after careful consideration of the arguments of the parties at the hearing and in their briefs, I find that the following unit is appropriate for the purposes of collective bargaining:

Professional employees including service coordinators, substance abuse counselors, case managers, basic living skills managers, therapists, early intervention specialists, qualified mental retardation professionals, behavior management specialists, supervised psychologists, registered nurses, pre-school teachers, family support coordinators, community support coordinators and community development specialists for substance abuse prevention employed by the Employer in Greenbrier, Webster, Nicholas and Pocahontas Counties in West Virginia, but excluding all other employees, office clerical employees, quality assurance employees, training instructors, regional office staff and guards and supervisors as defined in the Act.

Accordingly, I shall direct an election among the employees in such unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and

who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **District 1199 WV/KY/OH, The Health Care and Social Service Union, SEUI, AFL-CIO.**

LIST OF ELIGIBLE VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters using full names, not initials, and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB No. 359 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision 2 copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in Region 9, National Labor Relations Board, 3003 John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio 45202-3271, on or before **June 25, 1999**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 - 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **July 2, 1999**.

Dated at Cincinnati, Ohio this 18th day of June 1999.

/s/ Richard L. Ahearn

Richard L. Ahearn, Regional Director
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